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MISCELLANY.**Virginia Board of Law Examiners.****Richmond, Va., November 5, 1913.****QUESTIONS.**

1. Of what does the Common Law consist?
2. What is the rule of construction of a statute which is in derogation of the common law?
3. In the event of a conflict between an act of the Legislature of the State of Virginia, and a treaty of the United States made pursuant to the Federal Constitution, which should prevail, and why?
4. In what way are amendments to the United States Constitution proposed for adoption, and when does an amendment so proposed become valid?
5. Define an executory devise, and state wherein it differs from an estate in remainder.
6. What is the rule by which you determine whether a remainder is vested or contingent?
7. State the four unities in joint tenancy.
8. Define an estate upon condition and an estate upon conditional limitation.
9. Under the rule against perpetuities, within what time must a limitation vest, if at all?
10. If a personal injury, resulting from a railroad crossing accident, should be shown to be principally due to the negligence of the Railway Company, but in part to the concurring negligence of the plaintiff, for which party should judgment be given?
11. In case of destruction by fire of goods which have been sold and delivered, with title retained until purchase price is fully paid, does the loss fall upon the buyer or the seller?
12. When may an issue out of chancery be awarded in an equity suit?
13. What control has the Court over verdict of jury upon an issue out of chancery, and also a verdict of jury in a common law case?
14. When is a surety upon a bond released by reason of extension of time of payment granted by the payee to the maker?
15. What Courts have jurisdiction to entertain a suit for collection of lost bond or note?
16. What would you say as to the conclusiveness of record in the following cases:
 - (a) A judgment in action of debt was based upon process served upon defendant's wife, the return upon which process did not state that the defendant was not found at his usual place of abode.
 - (b) In sale of infant's land in suit by his guardian, a decree of sale recited that the guardian *ad litem* filed answer for the infant and in proper person as required, but some years later an attorney

examining title to the land and looking through the papers in the suit (which suit had been final and dismissed from the docket for at least ten years), was not able to find either answer among the papers in the suit. Could the attorney examining the title rely upon the recital in the decree that the answers in question had been filed?

17. Give two of the important exceptions to the rule that hearsay evidence is not admissible.

18. In what way may the law of another State other than its constitutional and statutory law, be proven, and in absence of proof, what would be the presumption as to the law of such other State?

19. What is a patent ambiguity, and state whether parol evidence may be introduced to explain it.

20. In order to take advantage in the Appellate Court of a wrong ruling of the Trial Court, in not permitting the witness to answer a question, what must the record show was done in the Trial Court with a view to bringing the error before the Appellate Court?

21. If a defendant in action of debt desired to offer proof of payment or set-off, what must he do before issue is joined for the trial of the case?

22. A merchant wrote out an application for insurance on his store building and goods under the direction of the agent of the Insurance Company, and told the agent he had no title to the real estate but only a title bond. The application, which was signed by the merchant, stated that the property was owned by him and unencumbered. The policy contained a provision that if the insured held other than fee simple unencumbered title the policy should be voided. The property was destroyed by fire. Could the merchant recover?

23. What is necessary to support plea of *res judicata*?

24. A testator lived in North Carolina, but owned land in Virginia. His will was declared void for undue influence in a Court in North Carolina. It was offered for probate in Virginia, and was shown to be executed with formalities required by our law, and no evidence of undue influence was shown, but the party objecting to probate rested his case upon a duly authenticated copy of the order in North Carolina refusing the probate. What order should the Virginia Probate Court have entered in the case?

25. As of what date must a will be construed to speak and take effect?

26. A verbally agreed with B to pay him \$30.00 per month for his service, and it was further understood that B should have conveyed to him at the end of the year certain land belonging to A at the rate of \$25.00 per acre, in settlement for the services. At the end of the year, B demanded deed for the land to the extent of services rendered, which A declined to give him. What redress had B upon the contract?

27. State four of the principal duties of an agent to his principal.

28. What are the modes of termination of an agency?

29. A, the undisclosed agent of B, acting for and in behalf of B, enters into a contract with C, in his (A's) name. The contract is breached against C, who thereafter learns that A is the agent of B. Can C hold both A and B personally liable on the contract?

30. There was a partnership for buying and selling horses. One of the two partners sold two of the horses to his individual creditor in satisfaction of debt, the creditor having no notice that the partner from whom he bought was selling firm property. What title, if any, did the purchaser acquire?

31. A, B, and C are partners, trading as A, B, & Co. The partnership owes D \$5,000.00, evidenced by the firm's note. A, with his personal funds, buys the note of D for \$2,000.00, and as assignee and holder of the note then seeks by proper proceedings to collect its face value. What is measure of the firm's liability on the note?

32. If A in the case last stated instituted an action of debt against his co-partners, what defense would you interpose?

33. If an owner of land desires to prosecute criminally any future trespass by:

(a) Persons who, without his permission, have made a practice of walking across his land; and

(b) Persons, who, without his permission, have been hunting on his land—what notice, if any, must he give?

34. Two persons pursuant to agreement commit a violent assault upon a third party, who sues one of them and secures judgment for \$1,000.00. The party against whom the judgment was secured then seeks to hold his joint tort-feasor responsible for one-half of the recovery against him. Could he do so?

35. A person took stock in a Realty Corporation, giving his note therefor, on the faith of a prospectus, which stated that the managing officials of the Company had assurances that within a year large manufacturing enterprises, a hotel and a school would be located on the property, none of which expectations were realized. Could a suit upon the note be successfully defended on the ground of misrepresentations? Give reasons for answer.

36. Certain persons, acting for and in the name of a corporation, which was never in fact legally organized as a corporation, incurred obligations in behalf of the said corporation. What liability, if any, was incurred personally by the said persons?

37. On an indictment for malicious cutting and wounding with intent to maim, disfigure, disable and kill, the jury finds defendant guilty of assault and battery. Defendant moves to set aside the verdict on the ground that he was not charged with assault and battery. Should the motion prevail, and why?

38. A seriously wounds B with a pistol. He is arrested and car

ried before a Justice of the Peace, by whom he is tried, and fined for assault and battery. Thereafter he is indicted by the grand jury fo assault with intent to kill. He pleads *autre fois convict*, and proves the sentence already imposed by the Justice of the Peace. What judgment should be entered upon this pleads.

39. On trial for assault with intent to kill, the person upon whom the assault was made was called as a witness in behalf of the Commonwealth, and was asked on cross-examination if he did not tell his wife that the prisoner acted only in his own defense. Can the witness be compelled to answer the question?—Give reasons for your answer.

40. State two of the rules of the Code of Ethics adopted by the Virginia Bar Association which you regard as important and essential.

Successful Applicants.

Blankenship, Thomas J.....	Union Hall, Va.
Bowen, John Holivid.....	Hampton, Va.
Brock, Robert A., Jr.....	Richmond, Va.
Brown, J. G.....	Newport News, Va.
Byrd, Thomas Bolling.....	Richmond, Va.
Curtis, Lawrence.....	Roseville, Va.
Darnall, Thomas M.....	Roanoke, Va.
Geddy, Thomas Henley, Jr.....	Williamsburg, Va.
Goad, Ingram.....	Portsmouth, Va.
Goodman, John P.....	Portsmouth, Va.
Hanna, Harry Joseph.....	Roanoke, Va.
Hosier, William J.....	Norfolk, Va.
Irvine, Lynn M.....	Mechanicsburg, Pa.
Jeffries, John L., Jr.....	Norfolk, Va.
Jenkins, Johns B., Jr.....	Norfolk, Va.
Kent, R. C., Jr.....	Norfolk, Va.
Louthan, F. G.....	Berryville, Va.
Meads, Frank J.....	Portsmouth, Va.
Moore, T. Justin.....	Richmond, Va.
Morris, W. S., Jr.....	Norfolk, Va.
Payne, C. C.....	Brandy Station, Va.
Potts, E. W.....	Abingdon, Va.
Richards, M. V.....	Nassawadox, Va.
Scott, Edgar B.....	Washington, D. C.
Smith, John W.....	Norfolk, Va.
Starkey, W. H.....	Norfolk, Va.
Turner, E. Peyton.....	Emporia, Va.
Webster, Frank Pierce.....	Portsmouth, Va.
White, Hubert S.....	Norfolk, Va.
Willock, James Henry.....	Richmond, Va.
Wilson, John.....	Wellville, Va.